

**CHAPTER NO. 599**

**HOUSE BILL NO. 597**

**By Representative Curtiss**

**Substituted for: Senate Bill No. 125**

**By Senator Ketron**

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 102, Part 3, relative to fire protection personnel.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 102, Part 3, is amended by adding a new section thereto, as follows:

Section 68-102-308.

(a) As a condition of employment of any paid or volunteer fire protection personnel, employers may initiate a criminal background check on any applicant for employment, or on any fire protection personnel currently employed by such employer.

(1) Departments that elect to conduct criminal background checks shall establish a policy addressing when a criminal background check may be conducted on a currently employed member.

(2) Criminal background checks of applicants may only be initiated after an employment or appointment offer has been made.

(3) Criminal background check reports shall be maintained for the duration of employment plus one (1) year. Access to the contents of a criminal background check shall be limited to the department head, human resource officer, employee's supervisor. The criminal background check shall not become part of the employee's personnel file.

(b) As used in this section, unless the context otherwise requires:

(1) "Employment" means paid employment by a public or private fire department, as well as membership in a volunteer fire department;

(2) "Employer" means public, private or volunteer fire agency, as well as fire prevention and investigation bureaus of a local jurisdiction; however, the definition of "employer" shall not include the state fire marshal's office or any division or section of the state fire marshal's office; and

(3) "Fire protection personnel" means any paid or volunteer member or applicant of a fire department or fire prevention bureau or division, such as firefighters, fire department officers, fire inspectors, fire investigators, and administrative assistance personnel.

(c) Fire protection personnel shall:

(1) Provide past work history and personal references to be checked by the employer;

(2) Agree to the release of such information and investigative records to the employer, or to any agency that contracts with the state, as may be necessary for the purpose of verifying whether the individual has been convicted of a felony or any theft or arson related conviction;

(3) Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation, the Federal Bureau of Investigation, other law enforcement agency, or any legally authorized entity; and

(4) Agree to the release of any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(d) Any cost incurred by the Tennessee bureau of investigation, Federal Bureau of Investigation, professional background screening organization, law enforcement agency or other legally authorized entity, in conducting such investigations of such fire protection personnel shall be paid by employer. An employer may require the applicant or employee to reimburse the employer for such costs, at the option of the employer. Payments of such costs to the Tennessee bureau of investigation are to be made in accordance with the provisions of §§ 38-6-103 and 38-6-109.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 17, 2006**

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 4<sup>th</sup> day of May 2006**

  
PHIL BREDESEN, GOVERNOR